

AMENDED IN SENATE JULY 2, 1999
AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 112

Introduced by Assembly Member Florez

December 23, 1998

An act to add Section 25350.2 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 112, as amended, Florez. Local government: tobacco settlement.

Existing law provides that in the matter of Tobacco Cases I, Case Number 4041, Department 46 of the Superior Court, County of San Diego, the parties in the coordinated tobacco litigation have reached a settlement through a memorandum of understanding that allocates 50% of the total recovery to cities and counties in California.

~~This bill would require that all of the total recovery from that settlement that is allocated to cities and counties be available to cities and counties for any purpose, and would authorize the governing body of a city or county, or city and county to deposit, by resolution, those moneys in a special fund in the State Treasury to be available to cities and counties to guarantee the financing of capital improvements, and as security for certificates of participation for local capital projects.~~

This bill would require the Treasurer to establish a specified fund and accounts for deposit of Tobacco Recovery Moneys that are allocated to any city, county, or city and county and would specify the disposition of those moneys, including authorization for the city, county, or city and county to use the money for any purpose and, pursuant to resolution of its governing body, for any of certain specified purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25350.2 is added to the
2 Government Code, to read:
3 ~~25350.2. (a) All of the total recovery money that is~~
4 25350.2. (a) For purposes of this section, the
5 following terms have the following meanings:
6 (1) "Memorandum of Understanding" means the
7 Memorandum of Understanding among the state and
8 various local governments of the state, dated August 5,
9 1998, entered into in connection with Tobacco Cases I,
10 Case No. 4041, Department 46 of the Superior Court,
11 County of San Diego, as that memorandum may be
12 amended from time to time in accordance with its terms.
13 (2) "Tobacco Litigation Settlement Fund" and "fund"
14 mean the fund and each segregated account therein
15 established by the Treasurer pursuant to this section in
16 which Tobacco Recovery Moneys may be deposited with
17 the state in trust by the various cities, counties, and a city
18 and county of the state.
19 (3) "Tobacco Recovery Moneys" means amounts,
20 including any earnings thereon, received by a city,
21 county, or city and county pursuant to the Memorandum
22 of Understanding.
23 (b) The Treasurer shall establish a special fund in the
24 State Treasury to be known as the Tobacco Litigation
25 Settlement Fund. Only Tobacco Recovery Moneys
26 received by the state from any city, county, or city and
27 county of the state shall be deposited in the fund.

1 (c) The Treasurer shall establish separate accounts
2 within the fund for each city, county, or city and county
3 that is allocated Tobacco Recovery Moneys pursuant to
4 the Memorandum of Understanding and chooses to
5 deposit all or any portion of its share of the Tobacco
6 Recovery Moneys into the fund. The Treasurer shall
7 deposit Tobacco Recovery Moneys into the appropriate
8 account on the day that those moneys are received by the
9 state.

10 (d) (1) The state shall not allocate Tobacco Recovery
11 Moneys for the state's own purposes, and neither shall any
12 city, county, or city and county allocate any portion of the
13 Tobacco Recovery Moneys that exceeds the amount that
14 entity is entitled to receive pursuant to the Memorandum
15 of Understanding.

16 (2) All Tobacco Recovery Moneys deposited by any
17 city, county, or city and county, as the case may be, shall
18 be made immediately available to that city, county, or
19 city and county for any purpose.

20 (e) The governing body of a city, county, or city and
21 county may, by resolution, at any time and from time to
22 time, utilize all or a portion of the Tobacco Recovery
23 Moneys to which it is entitled under the Memorandum of
24 Understanding for any of the following purposes:

25 (1) To guarantee or pay the principal or redemption
26 price of, or interest and premium, if any, on, certificates
27 of participation, lease financing, bonded debt, or other
28 evidences of indebtedness incurred or issued by or for the
29 city, county, or city and county.

30 (2) To provide security or credit enhancement for
31 certificates of participation, lease financing, bonded debt,
32 or other evidences of indebtedness by or for the city,
33 county, or city and county.

34 (3) To the extent of amounts on deposit in its account
35 pursuant to subdivision (c) for transfer to the treasury of
36 the city, county, or city and county or to a trustee
37 designated in writing by the city, county, or city and
38 county.

39 (f) The governing body of a city, county, or city and
40 county may also provide, by resolution, for the sale or

1 assignment of some or all of the Tobacco Recovery
2 Moneys to which it is entitled under the Memorandum of
3 Understanding, or any interest therein, in that manner as
4 the governing body deems appropriate, including by
5 negotiated sale or assignment or through a competitive
6 bidding process established by the governing body, at
7 that price or prices as the governing body deems
8 appropriate. Upon a sale or assignment as so described,
9 without recourse or retention of any risk of collection
10 thereof, the assigning city, county, or city and county will
11 no longer have any interest or rights in the Tobacco
12 Recovery Moneys that are so sold or assigned or in the
13 proceeds thereof, and all rights, title, and interest therein
14 shall vest in the purchaser; and neither the retention of
15 a subordinate interest in the Tobacco Recovery Moneys
16 nor the ownership of any equity interest in the purchaser
17 shall in any way adversely affect the characterization of
18 transfer as an absolute sale and assignment of the Tobacco
19 Recovery Moneys that are so sold and assigned.

20 (g) If, and to the extent that, a city, county, or city and
21 county takes any action pursuant to subdivision (e) or (f),
22 the city, county, or city and county shall notify the
23 Treasurer and shall provide specific instructions to the
24 Treasurer regarding the disposition of the Tobacco
25 Recovery Moneys to which it is entitled pursuant to the
26 Memorandum of Understanding. The Treasurer shall
27 fully cooperate with each city, county, or city and county
28 to ensure that Tobacco Recovery Moneys are
29 immediately available to the city, county, or city and
30 county pursuant to subdivision (e) or (f).

31 (h) Tobacco Recovery Moneys allocated to a city,
32 county, or city and county or its assignee, on deposit in the
33 fund shall be invested at the direction of the city, county,
34 or city and county or its assignee, and all earnings thereon
35 shall be credited to the benefit of the city, county, or city
36 and county or its assignee for which those amounts are
37 deposited.

38 (i) A city, county, or city and county shall only be
39 entitled to its share of Tobacco Recovery Moneys that are
40 deposited into its account pursuant to subdivision (c).

1 ~~{BND,O,O} allocated to the cities and counties of~~
2 ~~California pursuant to the memorandum of~~
3 ~~understanding from the settlement of the coordinated~~
4 ~~tobacco litigation in the matter of Tobacco Cases I, Case~~
5 ~~Number 4041, Department 46 of the Superior Court,~~
6 ~~County of San Diego, shall be available to cities and~~
7 ~~counties for any purpose.~~

8 ~~(b) The governing body of a city, county, or city and~~
9 ~~county, may, by resolution, deposit those moneys in a~~
10 ~~special Tobacco Litigation Settlement Fund in the State~~
11 ~~Treasury to be used for both of the following:~~

12 ~~(1) The principal and interest from the fund shall be~~
13 ~~available to cities and counties to guarantee payment~~
14 ~~under an agreement to finance capital improvements.~~

15 ~~(2) Security for certificates of participation for local~~
16 ~~capital projects.~~

